

THE HONORABLE BARBARA J. ROTHSTEIN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

GORDON HEMPTON,

Plaintiff,

v.

POND5 , INC., a Delaware Corporation;
and POND5 USER CKENNEDY342, a
corporation or individual of type unknown,

Defendants.

NO. 3:15-cv-05696-BJR

DECLARATION OF ROGER M.
TOWNSEND IN SUPPORT OF
PLAINTIFF'S REPLY IN SUPPORT
OF MOTION TO COMPEL

NOTE ON MOTION CALENDAR:
September 23, 2016

Roger M. Townsend states:

I am an attorney licensed to practice before the courts of the State of Washington. I represent Plaintiff Gordon Hempton. I have personal knowledge of the facts stated herein and am competent to testify to these facts.

1. During our telephonic meet and confer on July 19, 2016, Pond5's counsel offered to produce the "collateral information" about the downloads of Mr. Hempton's works (e.g. – the date of download, how many times the work had been downloaded, etc.). Pond5 refused to provide the *identities* of its customers.

2. The parties also briefly discussed the requests at Mr. Hempton's deposition on September 8, 2016, when the Court had initially scheduled a telephonic hearing regarding this discovery dispute. On that date, the parties had already drafted and submitted their joint statement to the Court outlining the issues and the scope of the potential motion to compel. The

1 parties briefly discussed the issues and determined, essentially, that there was nothing left to
2 discuss.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct.

5
6 Dated this 23rd day of September, 2016 in Seattle, Washington.

7 BRESKIN JOHNSON & TOWNSEND, PLLC

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Jamie Telegin
Jamie Telegin, Legal Assistant